

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE APRIL 14, 2011

SENATE BILL

No. 734

Introduced by Senator Price

(Principal coauthor: Assembly Member Galgiani)

(Coauthor: Assembly Member Galgiani)

February 18, 2011

An act to add Section 185034.1 of the Public Utilities Code, relating to small business.

LEGISLATIVE COUNSEL'S DIGEST

SB 734, as amended, Price. High-Speed Rail Authority: ~~Small~~ *small* business program: bidding preferences.

Existing law provides for various programs to encourage the participation of small businesses, as certified by the Department of General Services, in state agency contracts, and sets forth the duties of the Director of General Services and the directors of other state agencies in this regard.

Existing law, the California High-Speed Rail Act, creates the High-Speed Rail Authority to develop and implement a high-speed rail system in the state, with specified powers and duties. Existing law, pursuant to the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century, approved by the voters as Proposition 1A at the November 4, 2008, general election, provides for the issuance of \$9.95 billion in general obligation bonds for high-speed rail and related purposes.

This bill would require the authority to identify essential components of, and adopt, a small business program as part of contracts to be awarded by the authority relative to development and construction of

the high-speed rail system. The bill would require the authority to provide certain bidding preferences and to establish a goal methodology to determine the appropriate level of involvement of small businesses in authority contracts. The bill would require at least one public hearing by the authority before the program is adopted and would require the authority to include a plan for outreach to small businesses.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) In order to keep faith with the promise to promote California
4 jobs; following the passage of the Safe, Reliable, High-Speed
5 Passenger Train Bond Act for the 21st Century, the state should
6 aid, counsel, assist, and protect, to the maximum extent possible,
7 the interests of small businesses, including microbusinesses.

8 (b) California's microbusinesses are known to bring real
9 diversity to local economies and the state and deserve a fair share
10 of contracts awarded for the high-speed rail project. Although
11 microbusinesses comprise over 80 percent of California's certified
12 small businesses, and while it was the state's intent to afford
13 microbusinesses the same opportunities as other small businesses
14 in competing for state contracts, many microbusiness owners are
15 disadvantaged when competing against their larger small business
16 counterparts. Data compiled by the Department of General Services
17 shows that of the \$2.4 billion of contract dollars issued by state
18 agencies to small businesses and microbusinesses in fiscal year
19 2008–09, microbusinesses were awarded only 37 percent, or \$866
20 million worth of state contracting. Moreover, of the 103,371
21 contracts issued during the same timeframe, microbusinesses
22 received only 42,140, or 41 percent of the contracts issued by the
23 state.

24 (c) It is beneficial to the state to promote and facilitate the fullest
25 possible participation by California workers to train for new jobs
26 and careers in today's global economy.

27 (d) Therefore, it is essential to ensure that a fair proportion of
28 the total purchases and contracts or subcontracts for property and

1 services for California's high-speed rail system be placed with
2 these microbusinesses.

3 SEC. 2. Section 185034.1 is added to the Public Utilities Code,
4 to read:

5 185034.1. (a) The authority shall work with the Department
6 of General Services to identify essential components of, and adopt,
7 a small business program as part of contracts to be awarded by the
8 authority relative to the construction of the high-speed rail system.
9 The program may have separate elements for small businesses,
10 microbusinesses, and disabled veteran business enterprises, as
11 those terms are defined in subdivision (e). The program shall
12 include proper oversight of expenditure of state and federal funds,
13 contractor compliance monitoring and enforcement efforts, tracking
14 and reporting mechanisms, and prompt payment, reporting, and
15 project closeout provisions.

16 (b) In developing the small business program, the authority shall
17 do all of the following:

18 (1) Review and consider examples of existing small business
19 programs used by other public agencies in California.

20 (2) Establish a goal methodology to determine the appropriate
21 level of involvement of small businesses in authority contracts,
22 based on the likely nature of the work needed to be performed and
23 the likely ability of the small businesses to do that work.

24 (3) Provide three small business preferences, as follows:

25 (A) Provide a 5 percent bid preference to a responsible bid
26 meeting specifications that is submitted by a small business.

27 (B) Provide an incentive to nonsmall business bidders that
28 submit a responsible bid meeting specifications if the bid
29 incorporates the participation of small businesses in the manner
30 consistent with the goals set forth in the authority's program
31 established pursuant to this section. A nonsmall business bidder
32 shall be granted a 5 percent bid preference for meeting the goals.

33 (C) Grant an additional price preference or score of 2.5 percent
34 of the bid amount to qualified state-certified microbusinesses that
35 are local to a worksite.

36 (4) Establish, if determined to be desirable by the authority, a
37 prequalified list of contractors for certain types of authority
38 contracts, including, but not limited to, architectural and
39 engineering contracts.

1 (5) Include a plan for outreach, including information on training
2 and technical assistance that is available to assist small businesses
3 in understanding and bidding on contracts to be offered by the
4 authority. The authority shall specifically conduct a outreach
5 campaign that contacts certified small businesses listed in the
6 certification directories of the Department of General Services.

7 (c) The authority shall hold at least one public hearing on the
8 small business goal methodology required by paragraph (2) of
9 subdivision (b), and on the overall program developed pursuant
10 to this section. Following the public hearing, the authority shall
11 adopt the plan at a regularly scheduled meeting of the board. When
12 adopting the plan, the authority shall take into consideration
13 comments from the public hearing and written comments that it
14 receives in that regard, and any hearings the Legislature may hold
15 prior to adoption of the plan.

16 (d) Upon approval by the authority of the small business
17 program, its provisions shall be included in the design-build
18 procurement for Phase 1 and Phase 2 of the high-speed rail program
19 and in the environmental, architectural, and engineering stage for
20 Phase 2 of the high-speed rail program.

21 (e) As used in this section, the following terms have the
22 following meanings:

23 (1) “Disabled veteran business enterprise” means an enterprise
24 that has been certified as meeting the qualifications established by
25 subdivision (g) of Section 999 of the Military and Veterans Code.

26 (2) “Microbusiness” means a microbusiness as defined in
27 paragraph (2) of subdivision (d) of Section 14837 of the
28 Government Code.

29 (3) “Small business” means a small business as defined in
30 paragraph (1) of subdivision (d) of Section 14837 of the
31 Government Code.